

IN THE SUPREME COURT FOR THE STATE OF MICHIGAN

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v. ADAM STEVENS
(Print the name you were convicted under on this line.)

BENJAMIN Defendant-Appellant.

Supreme Court No. Op 4-10-14

(Leave blank.)

Court of Appeals No. 309481

(From Court of Appeals decision.)

Trial Court No. 10-005622-FC

(See Court of Appeals brief or Presentence Investigation Report.)

Jackson

J. McBain

INSTRUCTIONS: Answer each question. Add more pages if you need more space. NOTE: If you are appealing a Court of Appeals decision involving an administrative agency or a civil action, you will have to replace this page with one containing the relevant information for that case.

149380

PRO PER APPLICATION FOR LEAVE TO APPEAL

1. I was found guilty on (Date of Plea or Verdict) MARCH, 22 2012

2. I was convicted of (Name of offense) SECOND DEGREE CHILD ABUSE,
SECOND DEGREE MURDER.

3. I had a ☐ guilty plea; ☐ no contest plea; ☒ jury trial; ☐ trial by judge. (Mark one that applies.)

4. I was sentenced by Judge JOHN G. MCBAIN on MARCH, 22 2012
(Print or type name of judge) (Print or type date you were sentenced)

in the JACKSON County Circuit Court to 25 years 00 months
(Name of county where you were sentenced) (Put minimum sentence here)

to 50 years 00 months, and to 00 years 32 months to 00 years 48 months.
(Print or type maximum sentence) (Minimum sentence) (Maximum sentence)

I am in prison at the SAGINAW CORRECTIONAL FACILITY in FREELAND, Michigan.
(Print or type name of prison) (Print or type city where prison is located.)

5. The Court of Appeals affirmed my conviction on APRIL 10 2014
(Print or type date stamped on Court of Appeals decision)

in case number 309481. A copy of that decision is attached.
(Print or type number on Court of Appeals decision)

6. ☒ This application is filed within 56 days of the Court of Appeals decision. (It MUST be received by the Court within 56 days of date on Court of Appeals decision in criminal cases and 42 days in civil cases. Delayed applications are NOT permitted, effective September 1, 2003.)

FILED

MAY 29 2014

LARRY S. ROYSTER
CLERK
MICHIGAN SUPREME COURT

PRO PER APPLICATION FOR LEAVE TO APPEAL cont.

ADAM STEVENS, Defendant-Appellant

CA No. 309481

INSTRUCTIONS: In the part below, only bring up issues that were in your Court of Appeals brief. Attach a copy of your Court of Appeals brief if possible. If you prepared a supplemental brief which was filed in the Court of Appeals, those issues go in this part also. You should attach a copy of that brief, too, if you can. New issues go in question 8 on page 7.

GROUND - ISSUES RAISED IN COURT OF APPEALS

7. I want the Court to consider the issues as raised in my Court of Appeals brief and the additional information below.

ISSUE 1:

A. (Copy the headnote, the title of the issue, from your Court of Appeals brief.)

The DEFENDANT WAS DENIED A FAIR TRIAL BY NUMEROUS INSTANCES OF THE TRIAL COURT DEMONSTRATING JUDICIAL BIAS IN QUESTIONING THE DEFENDANT AND HIS EXPERT WITNESS.

B. The Court should review the Court of Appeals decision on this issue because: (Check all the ones you think apply to this issue, but you must check at least one.)

- ☐ 1. The issue raises a serious question about the legality of a law passed by the legislature.
☒ 2. The issue raises a legal principle which is very important to Michigan law.
☐ 3. The Court of Appeals decision is clearly wrong and will cause an important injustice to me.
☐ 4. The decision conflicts with a Supreme Court decision or another decision of the Court of Appeals.

C. (Explain why you think the choices you checked in "B" apply to this issue. List any cases that you want the Supreme Court to consider. State any facts which you want the Court to consider. If you think the Court of Appeals mixed up any facts about this issue, explain here. If you need more space, you can add more pages.)

JUDICIAL BIAS IS A STRUCTURAL ERROR THAT CAN NEVER BE FOUND TO BE HARMLESS. (PEOPLE-V-JACKSON, 292 MICH APP 583, 598; 808 NW2D 541 (2011) CHAPMAN V CALIFORNIA, 386 US 18, 23 N.8; 87 S CT 829; 17 L ED 2D 705 (1967) [CITING TUNNEY V-OHIO, 273 US 510; 47 S CT 437; 71 L ED 749 (1927)]
A CRIMINAL DEFENDANT IS ENTITLED TO A NEUTRAL AND DETACHED MAGISTRATE. PEOPLE-V-JACKSON, SUPRA, 292 MICH APP 583, 597.

ADAM STEVENS, Defendant-Appellant

CA No. 309481

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ISSUE II:

A. (Copy the headnote, the title of the issue, from your Court of Appeals brief.)

There WAS INSUFFICIENT EVIDENCE TO CONVICT THE
DEFENDANT OF SECOND DEGREE MURDER.

B. The Court should review the Court of Appeals decision on this issue because: (Check all the ones you think apply to this issue, but you must check at least one.)

- ☐ 1. The issue raises a serious question about the legality of a law passed by the legislature.
- ☒ 2. The issue raises a legal principle which is very important to Michigan law.
- ☐ 3. The Court of Appeals decision is clearly wrong and will cause an important injustice to me.
- ☐ 4. The decision conflicts with a Supreme Court decision or another decision of the Court of Appeals.

C. (Explain why you think the choices you checked in B apply to this issue. List any cases that you want the Supreme Court to consider. State any facts which you want the Court to consider. If you think the Court of Appeals mixed up any facts about this issue, explain here. If you need more space, you can add more pages.)

A CRIMINAL DEFENDANT IS CONSTITUTIONALLY ENTITLED TO
VACATING A CONVICTION WHERE UPON THE RECORD EVIDENCE ADDUCED
AT THE TRIAL NO RATIONAL TRIER OF FACT COULD HAVE FOUND
PROOF OF GUILT BEYOND REASONABLE DOUBT.

★ JACKSON-V-VIRGINIA, 443 US 307, 329; 61 L Ed 2D 560 99 S
CT 2781 (1979) ★ PEOPLE-V-HARDIMAN, 466 Mich 417, 420-421;
646 NW2D 158 (2002) ★ PEOPLE-V-ROPER, 286 Mich APP 77,
84; 777 NW2D 483, 490 (2009) ★ PEOPLE-V-MAYNOR, 470 Mich
289, 297; 683 NW2D 565 (2004) ★ PEOPLE-V-DROSSART, 99 Mich
APP 66, 75; 297 NW2D 863 (1980)

PROSECUTOR APPLICATION FOR LEAVE TO APPEAL cont.

ADAM STEVENS, Defendant-Appellant

CA No. 309481

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ISSUE III:

A. (Copy the headnote, the title of the issue, from your Court of Appeals brief.)

THE TRIAL COURTS RESPONSE TO A JURY QUESTION ALLOWED THE JURY TO CONSIDER AS THE PREDICATE FOR FELONY MURDER INSTANCE OF FIRST DEGREE CHILD ABUSE THAT WERE NOT CONTEMPORANEOUS WITH THE DEATH OF KIAN STEVENS, ALSO CONSTRUCTIVELY AMENDED THE INFORMATION TO INCLUDE INSTANCES OF FIRST-DEGREE CHILD ABUSE THAT WERE NOT CHARGED

B. The Court should review the Court of Appeals decision on this issue because: (Check all the ones you think apply to this issue, but you must check at least one.)

- ☐ 1. The issue raises a serious question about the legality of a law passed by the legislature.
- ☒ 2. The issue raises a legal principle which is very important to Michigan law.
- ☐ 3. The Court of Appeals decision is clearly wrong and will cause an important injustice to me.
- ☐ 4. The decision conflicts with a Supreme Court decision or another decision of the Court of Appeals.

C. (Explain why you think the choices you checked in B apply to this issue. List any cases that you want the Supreme Court to consider. State any facts which you want the Court to consider. If you think the Court of Appeals mixed up any facts about this issue, explain here. If you need more space, you can add more pages.)

QUESTIONS OF LAW ARISING FROM JURY INSTRUCTIONS ARE REVIEWED DE NOVO. *PEOPLE-V-GILLIS, 474 MICH 105, 113; 712 NW2D 419 (2006) *US CONST, AM V, AM XIV; CONST 1963 ART 1, § 17, 20; PEOPLE-V-VISEL, 275 MICH 77, 81; 265 NW 781 (1936) *PEOPLE-V-RIDDLE, 467 MICH 116, 129; 649 NW2D 30 (2002) *CALIFORNIA-V-TROMBETTA, 467 MICH 479, 485; 104 S CT 2528; 81 L ED 2D 413 (1984) *TAYLOR-V-WITHROW, 288 F3D 846, 852 (CA6, 2002)

ADAM STEVENS, Defendant-Appellant

CA No. 309481

INSTRUCTIONS: In the part below, only bring up issues that were in your Court of Appeals brief. Attach a copy of your Court of Appeals brief if possible. If you prepared a supplemental brief which was filed in the Court of Appeals, those issues go in this part also. You should attach a copy of that brief, too, if you can. New issues go in question 8 on page 7.

ISSUE IV:

A. (Copy the headnote, the title of the issue, from your Court of Appeals brief.)

THE TRIAL COURT ERRED IN ALLOWING TESTIMONY FROM DR. BETHANY MOHR THAT WAS NOT ADMISSIBLE UNDER MRE 803(4) FOR PURPOSES OF MEDICAL TREATMENT.

B. The Court should review the Court of Appeals decision on this issue because: (Check all the ones you think apply to this issue, but you must check at least one.)

- ☐ 1. The issue raises a serious question about the legality of a law passed by the legislature.
- ☒ 2. The issue raises a legal principle which is very important to Michigan law.
- ☐ 3. The Court of Appeals decision is clearly wrong and will cause an important injustice to me.
- ☐ 4. The decision conflicts with a Supreme Court decision or another decision of the Court of Appeals.

C. (Explain why you think the choices you checked in B apply to this issue. List any cases that you want the Supreme Court to consider. State any facts which you want the Court to consider. If you think the Court of Appeals mixed up any facts about this issue, explain here. If you need more space, you can add more pages.)

PEOPLE-V-DOUGLAS, 296 Mich APP 186, 191; 817 NW2D 640 (2012) * PEOPLE-V-CARINES, 460 Mich 750, 763; 597 NWD 130 (1999) * PEOPLE-V-MEEBOER (After remand), 439 Mich 310, 322; 484 NW2D 621 (1992) * PEOPLE-V-LALONE, 432 Mich 103, 116; 117; 437 NW2D 611 (1989)

ADAM STEVENS, Defendant-Appellant

CA No. 309481

INSTRUCTIONS: In the part below, only bring up issues that were in your Court of Appeals brief. Attach a copy of your Court of Appeals brief if possible. If you prepared a supplemental brief which was filed in the Court of Appeals, those issues go in this part also. You should attach a copy of that brief, too, if you can. New issues go in question 8 on page 7.

ISSUE V:

A. (Copy the headnote, the title of the issue, from your Court of Appeals brief.)

THE TRIAL COURT ERRED IN ALLOWING OVER THE DEFENDANTS OBJECTION EVIDENCE OF ALLEGEDLY SIMILAR ACTS.

B. The Court should review the Court of Appeals decision on this issue because: (Check all the ones you think apply to this issue, but you must check at least one.)

- ☐ 1. The issue raises a serious question about the legality of a law passed by the legislature.
- ☒ 2. The issue raises a legal principle which is very important to Michigan law.
- ☐ 3. The Court of Appeals decision is clearly wrong and will cause an important injustice to me.
- ☐ 4. The decision conflicts with a Supreme Court decision or another decision of the Court of Appeals.

C. (Explain why you think the choices you checked in B apply to this issue. List any cases that you want the Supreme Court to consider. State any facts which you want the Court to consider. If you think the Court of Appeals mixed up any facts about this issue, explain here. If you need more space, you can add more pages.)

PEOPLE -V- WASHINGTON, 468 MICH 667, 670-671; 664 NW2D 203 (2003) PEOPLE-V- WASHINGTON, SUPRA, 468 MICH 667, 670. US CONST, AM XIV; CONST 1963, ART I, § 17; LISERNA-V-CALIFORNIA, 314 US 219, 236; 62 S Ct 280; 86 L ED 166 (1941)

FOR MORE ISSUES, ADD PAGES. GIVE THE SAME INFORMATION. NUMBER EACH ISSUE.

PROSECUTOR APPLICATION FOR LEAVE TO APPEAL cont.

_____, Defendant-Appellant

CA No. _____

NEW ISSUES - INSTRUCTIONS: If you want the Supreme Court to look at errors which were not raised in the Court of Appeals by your attorney or you, check YES in "8." Answer parts A, B, and C for each new issue you raise. There is space provided for 2 new issues. You can add more pages. If you do not have new issues, go to question 9 on page 8.

GROUND - NEW ISSUES

8. ☐ YES, I want the Court to consider the additional grounds for relief contained in the following issues. The issues were not raised in my Court of Appeals brief. MCR 7.302(F)(4).

NEW ISSUE I:

A. (State the new issue you want the Court to consider.) _____

- B. The Court should review this issue because: (Check all the ones you think apply to your case, but you must check at least one.)

- ☐ 1. The issue raises a serious question about the legality of a law passed by the legislature.
☐ 2. The issue raises a legal principle which is very important to Michigan law.

- C. (Explain why you think that your choices in B above apply to this issue in your case. List any cases and citations, laws, or court rules, etc. which support your argument. Explain how they apply to this issue. State the facts which support and explain this issue. If these facts were not presented in court, explain why. You can add more pages.)



CA No. _____

NEW ISSUE II:

A. (State the new issue you want the Court to consider.) _____

B. The Court should review this issue because: (Check all the ones you think apply to your case, but you must check at least one.)

- ☐ 1. The issue raises a serious question about the legality of a law passed by the legislature.
- ☐ 2. The issue raises a legal principle which is very important to Michigan law.

C. (Explain why you think that your choices in B above apply to this issue in your case. List any cases and citations, laws, or court rules, etc. which support your argument. Explain how they apply to this issue. State the facts which support and explain this issue. If these facts were not presented in court, explain why. You can add more pages.)

RELIEF REQUESTED

9. For the above reasons I request that this Court GRANT leave to appeal, APPOINT a lawyer to represent me, and GRANT any other relief it decides I am entitled to receive.

5-20-14
(Date)
ADAM STEVENS 832598
(Print your name and number here.)

Adam Stevens
(Sign your name here.)
SAGINAW CORRECTIONAL FACILITY
(Print your address here.)
9625 PIERCE ROAD
FREELAND, MI 48023

ISSUE VI

ADAM STEVENS

THE TRIAL COURT ERRED IN SCORING
OV 7, OV 10, AND OV 13 AND RESENTANCING
IS REQUIRED BECAUSE THE RECOMMENDED
MINIMUM SENTANCE RANGE WAS AFFECTED.

People-V-VANDerLeek

TOWNSEND-V-BURKE, 334 U.S. 736; 68 S Ct 1252;
92 L ED 2D 1690 (1948)

People-V-STEEL, 283 Mich App 472, 490; 769
NW2D 256 (2009)

People-V-WILLIAMS, 483 Mich 226, 231; 769
NW2D 605 (2009)

People-V-MOROSON, 471 Mich 248, 255; NW2D
203 (2004)

People-V-LECHLEITNER, 291 Mich App 5642, 804
NW2D 345 (2010)

People-V-MALKOWSKI, 385 Mich 244, 249; 188
NW2D 559 (1971)